

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION-FLINT**

IN RE:

Donald E. Clear
Shelley A. Clear

CASE NO.: 12-35017-dof
CHAPTER 13 PROCEEDINGS
JUDGE DANIEL S. OPPERMAN

Address(es): 11923 E. Goodall Road, Durand, MI 48429

Employer's Tax Identification (EIN) No(s) (if any):

Social Security No.: xxx-xx-8539

Social Security No.: xxx-xx-2480

Debtor(s) _____/

**NOTICE OF CHAPTER 13 STANDING TRUSTEE'S OBJECTION TO
THE PROOF OF CLAIM OF FEDERAL NATIONAL MORTGAGE
ASSOCIATION C/O SETERUS, INC. AS IDENTIFIED AS PACER CLAIM
NUMBER 8 PURSUANT TO THE COURT'S CLAIMS REGISTER**

The Chapter 13 Standing Trustee, Carl L. Bekofske, has filed an objection to
a Proof of Claim in this bankruptcy case.

**Your claim may be reduced, modified or disallowed. You should read
these papers carefully and discuss them with your attorney, if you have one.**

If you do not want the Court to disallow or change your proof of claim, then
on or before, **June 5, 2018**, you or your lawyer must:

1. File with the Court a written response to the objection explaining your
position at:

United States Bankruptcy Court

226 West Second Street

Flint, MI 48502

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

All attorneys are required to file pleadings electronically.

You must also mail a copy to:

Donald & Shelley Clear: 11923 E. Goodall Road, Durand, MI 48429
Chapter 13 Trustee 400 N. Saginaw St., Ste. 331 Flint, MI 48502
Federal National Mortgage Assoc. c/o Seterus, Inc.: PO Box 1047, Hartford, CT 06143

2. Attend the hearing on the objection, scheduled to be held on **June 12, 2018 at 10:00 am** in Courtroom at United States Bankruptcy Court, 226 West Second Street, Flint, MI 48502, unless your attendance is excused by mutual agreement between yourself and the objector's attorney. (Unless the matter is disposed of summarily as a matter of law, the hearing shall be a pre-trial conference only; neither testimony nor other evidence will be received. A pre-trial scheduling order may be issued as a result of the pre-trial conference.)

If you or your attorney do not take these steps, the Court may deem that you do not oppose the objection to the claim, in which event the hearing will be cancelled and the objection sustained.

Dated: April 19, 2018

/s/ Carl L. Bekofske

Carl L. Bekofske P10645

Melissa Caouette P62729

Leo J. Foley, Jr. P76060

400 N. Saginaw Street, Ste. 331

Flint, MI 48502

Telephone: 810.238.4675

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ecf@flint13.com

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION-FLINT**

IN RE:

Donald E. Clear
Shelley A. Clear

CASE NO.: 12-35017-dof
CHAPTER 13 PROCEEDINGS
JUDGE DANIEL S. OPPERMAN

Debtor(s) _____ /

**CHAPTER 13 TRUSTEE'S OBJECTION TO THE PROOF OF CLAIM OF
FEDERAL NATIONAL MORTGAGE ASSOCIATION C/O SETERUS, INC.
AS IDENTIFIED AS PACER CLAIM NUMBER 8 PURSUANT TO THE
COURT'S CLAIMS REGISTER**

NOW COMES the Chapter 13 Trustee and by way of objection to the Proof of Claim of Federal National Mortgage Association c/o Seterus, Inc. as identified as Pacer claim number 8 pursuant to the Court's Claims Register, as follows:

1. The debtors' voluntary Chapter 13 Petition was filed on December 31, 2012.
2. The debtors' Chapter 13 Plan, docket number 6, treated a debt to CitiMortgage, Inc. as a crammed down claim with a value of \$39,900.
3. The creditor, CitiMortgage, Inc. did not file an objection to the debtor's proposed Chapter 13 Plan.

4. A Proof of Claim was filed on behalf of CitiMortgage, Inc. on August 9, 2013 in the amount of \$81,065.55 and is identified as Pacer Claim number 8 pursuant to the Court's Claims Register.
5. A Transfer of Claim, other than for security, was filed on February 26, 2014 transferring the servicing of this debt from CitiMortgage, Inc. to Federal National Mortgage Association c/o Seterus, Inc.
6. The deadline for all creditors (except a governmental unit) to file a proof of claim in this case was April 29, 2013.
7. The deadline for all governmental units to file a Proof of Claim in this case was July 1, 2013.
8. Claimant's Proof of Claim, Pacer claim number 8, was filed after both of those deadlines.

WHEREFORE, the Chapter 13 Standing Trustee requests that this Honorable Court disallow the \$41,165.55 unsecured portion of the Proof of Claim filed on behalf of Federal National Mortgage Association c/o Seterus, Inc., as identified as Pacer claim number 8 pursuant to the Court's Claims Register, and grant any further and other relief as this Court deems equitable and just, including entering an Order absolving the Trustee from any duty to recoup disbursements

previously made to Federal National Mortgage Association c/o Seterus, Inc.

Dated: April 19, 2018

/s/ Carl L. Bekofske

Carl L. Bekofske P10645

Melissa Caouette P62729

Leo J. Foley, Jr. P76060

400 N. Saginaw Street, Ste. 331

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
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IN RE:

Donald E. Clear
Shelley A. Clear
Debtors. _____/

CASE NO.: 12-35017-dof
CHAPTER 13 PROCEEDINGS
JUDGE DANIEL S. OPPERMAN

**ORDER GRANTING THE CHAPTER 13 TRUSTEE'S OBJECTION TO
THE PROOF OF CLAIM OF FEDERAL NATIONAL MORTGAGE
ASSOCIATION C/O SETERUS, INC. AS IDENTIFIED AS PACER CLAIM
NUMBER 8 PURSUANT TO THE COURT'S CLAIMS REGISTER**

This matter having arisen upon the Objection to Proof of Claim filed by the Chapter 13 Standing Trustee, the Objection having been served with the Notice of Objection to Claim in accordance with the local bankruptcy rules, the requisite time for a response having passed, no response to the Objection having been timely filed and served, and the Court being otherwise sufficiently advised in the premises:

IT IS HEREBY ORDERED that the Proof of Claim filed by Federal National Mortgage Association c/o Seterus, Inc., as identified as Pacer claim number 8 pursuant to the Court's Claims Register, is disallowed as to the \$41,165.55 unsecured portion.

IT IS HEREBY ORDERED that to the extent the Chapter 13 Standing Trustee has previously made disbursements to such Creditor, the Trustee shall not be obligated to recoup same.

“Proposed Order”

**UNITED STATES BANKRUPTCY COURT
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Shelley A. Clear

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Debtor(s) _____ /

CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2018, I electronically filed the Chapter 13 Standing Trustee's Objection to the Proof of Claim of Federal National Mortgage Association c/o Seterus, Inc., as identified as Pacer claim number 8 pursuant to the Court's Claims Register, Notice, Proposed Order and Certificate of Service with the Clerk of the Court using the ECF system; which will send notification to the following:

Attorney for Debtor:

Laura L. Shirah laurashirah@yahoo.com

The following parties were served via First Class Mail at the address below by depositing same in a United States Postal Box with the lawful amount of postage affixed thereto:

Federal National Mortgage Association
c/o Seterus, Inc.
PO Box 1047
Hartford, CT 06143

Rosicki, Rosicki & Associates, P.C.
51 E. Bethpage Road
Plainview, NY 11803

Donald & Shelley Clear
11923 E. Goodall Road
Durand, MI 48429

/s/ Sherry Beasinger
Sherry Beasinger
Chapter 13 Trustee's Office
400 N. Saginaw Street, Suite 331
Flint, MI 48502
Telephone: (810) 238-4675
ecf@flint13.com